



ZONING BOARD OF APPEALS
RICHARD D. CARNEY MUNICIPAL OFFICE BUILDING
100 MAPLE AVENUE
SHREWSBURY, MA 01545-5398

December 12, 2006

PUBLIC HEARING: Hemlata Roy and Sanjit Basu, 141 Memorial Drive, Shrewsbury, MA.

PURPOSE: To hear the appeal of Hemlata Roy and Sanjit Basu, 293 Turnpike Road, Apartment 419, Westborough, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the single family dwelling situated upon property located at 141 Memorial Drive as in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 47 as Plot 28-1.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Rosen: Could you please just state your names for the record.

Mr. Basu: Yes; Sanjit Basu.

Ms. Roy: Hemlata Roy.

Mr. Harrington: Mike Harrington.

Mr. Basu: We are appealing to the board for an in-law apartment in the basement. My parents are coming over. They're basically vegetarian people. We are non vegetarian people. In our culture and their culture we have our kitchen separate so even the refrigerator and everything is separate. They are coming in April. I just bought the house from Mike. He's the builder. I thought that since they're coming in April it would be a good idea to have the finished in-law basement done before they come so that from day one there won't be any problem for their living over here.

Mr. Rosen: You're not making any changes to the building at all? It's just all internal, inside?

Mr. Basu: Yes.

Mr. Rosen: You're not changing the footprint, nothing outside?

Mr. Basu: Nothing.

Mr. Rosen: Okay. You also know that if we approve the in-law apartment the sun sets with you; you can't sell it? Anyone else who comes after you would have to come before us also to use it as an in-law apartment.

Mr. Basu: Yes.

Mr. Rosen: Are there any other questions?

Mr. Gordon: How large is it going to be? I was not clear.

Mr. Harrington: It's about 400 sq. ft.

Mr. Gordon: Okay, so it's only one bay?

Mr. Harrington: Yes; it's about half the basement.

Mr. Gordon: You're going to keep the other garage?

Mr. Harrington: Yes.

Mr. Gordon: Okay.

Mr. Harrington: We're actually not even taking one bay of the garage. What will happen is there were two bays there.

Mr. Gordon: Yes.

Mr. Harrington: So, we're going to take out two doors and put in one 16 ft. door so that the bedroom in the basement will have direct access to the outside. We'll build a hallway there.

Mr. Gordon: There's going to be a kitchen downstairs?

Mr. Harrington: Yes.

Mr. Gordon: Okay. A kitchen and bedroom?

Mr. Harrington: A kitchen, bedroom and a bathroom.

Mr. Gordon: Okay; I have no problems.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Hemlata Roy and Sanjit Basu, 293 Turnpike Road, Apartment 419, Westborough, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the single family dwelling situated upon property located at 141 Memorial Drive as in-law apartment.

The appellants have recently purchased the single family dwelling that was recently constructed upon the subject premises. They propose to develop an in-law apartment within part of the basement area of their home. There would be no external changes to the structure except that one of the two overhead doors to the drive-under garage would be removed and the second would be enlarged. The appearance of the structure, which sits approximately 350 ft. in from Memorial Drive, would remain a typical Colonial-style, single family home.

Upon review of the appellants' appeal, the board found that the use and occupancy of the proposed in-law apartment was consistent with the intent of the Zoning Bylaw in permitting such accessory living accommodations within or attached to a single family residence. It was their opinion that the issuance of the special permit would not create any condition which would be harmful or injurious to the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the restriction that the rights authorized by the issuance of the special permit shall remain in effect only during that period of time that the appellants own and occupy the subject property.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

PUBLIC HEARING: Summit Ridge Estates, Inc., 15 Slocum Meadow Lane,
Shrewsbury, MA.

PURPOSE: To hear the appeal of Summit Ridge Estates, Inc., 87 Main Street, Rutland, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the single family dwelling to be constructed upon property located at 15 Slocum Meadow Lane as in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 15 as Plot 1-7.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Rosen: Please state your name for the record.

Dave Parmenter: My name is Dave Parmenter. I'm one of the principals of Summit Ridge Estates.

We're currently building a subdivision on the southwesterly side of Gulf Street just after the intersection of Gulf and Wheelock Road. The name of our street that we're building on right now is Slocum Meadow Lane.

Mr. Gordon: Is it "lane" or "road" Dave?

Dave Parmenter: It's "lane."

Mr. Gordon: Your map says "road" and the permit says "lane."

Dave Parmenter: It should be "lane." What map do we have here?

Mr. Gordon: This one, map 15.

Dave Parmenter: That's wrong on the tax plate. It's actually Slocum Meadow Lane.

Mr. Gordon: Okay.

Dave Parmenter: That's from the tax plates. I assume that they made a mistake on that, but I can check that.

Mr. Gordon: I think that you should because the planning board generally doesn't allow a "lane" for a "road." We may have overlooked it.

Dave Parmenter: Okay. Well, I can check that out.

The zoning in the area is Residence A and Rural A. We have agreed to sell a house on the property to some residents from Shrewsbury, local residents. There are three of them. There's Cynthia and Scott Wyman and then Cynthia's mother, Christine Gulino.

The house is configured so that it's a two-story colonial with a garage under. What we've done is expanded the garage under area so that you can put an in-law apartment above it and now there will be a three-car garage. There are the three people and so they each will all be able to have a bay in the garage. There will be an access from the garage for the mother-in-law to come up and use this area as her home. What we've tried to do is to not make it look like a two-family house because we are in a single family area. We're trying to be sensitive to the other people that we're building for in the area too.

So, basically, it has a farmer's porch on the front. There's a main doorway that serves the main house and then there will be another front door which won't be in the front. It will actually be on the side so that you won't have the appearance of the two-family.

I have explained to the three buyers that I needed to come here to get a special permit. Because we're the owners now, we need the permit, not them. I guess we have to pass it on to them. I don't understand the process for that, but I assume that we have to secure a special permit. I might ask you what the process is because it's not like they own it yet.

Basically, here's the appearance of the house. As you can see, it looks like a single family house. You see the side views, the rear view. All I did was I joined the two decks together. They wanted to have some separation, so I just joined it with a common stairway.

I talked to the building inspector and he told me that I should probably have a signed statement by the people, because they could not attend tonight, stating that they understand the situation. Basically, I have a cover sheet here, and I'll pass this out to you, that says that, because we're the property owner, we're applying for the permit. In fact, I'll read this very short excerpt. It says "Summit Ridge Estates has applied for a special permit to allow an in-law apartment style dwelling to be constructed at 15 Slocum Meadow Lane, Shrewsbury, MA. The dwelling shall have the appearance and characteristics of a single family dwelling from the exterior and will conform to all setback and building requirements of the Rural A Zone within which boundary the said property is located. Since Summit Ridge Estates is still the property owner, I respectfully request that the special permit be granted to Summit Ridge Estates for the sole benefit of the buyers, Scott and Cynthia Wyman as well as Cynthia's Mother Christine Gulino. The special permit would be transferred to the buyers on the date of sale." I have attached an addendum here that shows that the stipulations of not more than three people living in the in-law apartment and that they be related by blood or marriage.

Mr. Rosen: I have a question Ron. We normally approve this with sunset provisions?

Mr. Alarie: Generally, but I think this could be written so that it's issued to Summit Ridge and to...

Mr. Rosen: Even though they don't have an interest yet?

Mr. Alarie: Well, Summit Ridge is the owner. They have the interest. The beneficiaries of that will be the parties that they are building for. You could stipulate that it will expire when they cease to either own or occupy their property.

Mr. Rosen: Okay.

Mr. George: So, we could tie that letter written here?

Mr. Alarie: Very easily.

Mr. Rosen: Okay.

Dave Parmenter: Do you want the original of that letter? I had it notarized. I don't know if you want the original. I don't know if I gave you the original.

Mr. Rosen: No. It doesn't have a seal on it.

Dave Parmenter: I can give you this one. This one has the seals on it.

Mr. George: Unless you need that for legal purposes.

Dave Parmenter: I don't think that I really need it. I think I need the permit more than I need that so I guess I'll give it up.

Mr. Rosen: It sounds like a fair trade for you?

Dave Parmenter: Yes. I also have a smaller copy of the plan if you want that, if that helps for your files.

Mr. Rosen: We have them in here.

Dave Parmenter: Okay, so you're all set with that.

Mr. Rosen: You're okay with the large one?

Mr. Alarie: We have the large one in the office and we have the smaller too.

Mr. Rosen: Okay. Are there any questions?

Mr. Gordon: I have no questions but I would like to see the sunset provision.

Mr. George: Right. I have no questions.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? State your name for the record.

Mr. Adler: Sure. I'm Mark Adler. I'm an abutter and town meeting member and a friend of the Wymans who will be purchasing this house. I wanted to know, I've looked through zoning laws on this matter of an in-law suite, why a special permit is needed and why it can't be set up as matter of right if the appropriate regulations are followed. I don't know if perhaps the planning board or the building inspector would address or the ZBA would like to?

Mr. Alarie: In our zoning bylaw in the table and use regulations there are certain uses that are permitted by right. In this district single family homes are and only single family. Since it's a separate housekeeping unit the Bylaw stipulates in-law apartments are subject to the issuance of a special permit by the Zoning Board of Appeals. The basic purpose of that is to have the input of the board and any abutters and also to put on record that there will be a filing of the board's decision with the registry that that additional unit is restricted to in-law occupancy. So, it's provided for in our zoning bylaw as a special permit use.

Mr. Adler: My second question then is, by what standard does this board decide to grant such a permit?

Mr. Rosen: Based on what they present.

Mr. Adler: I mean, if all the regulations are appropriately followed could an abutter come in and complain we don't like them; they're ugly so don't grant it? That would be a bit arbitrary. Is there something more specific or is it just the whim of the board.

Mr. Alarie: No. The basic prerequisites in the bylaw for the granting of a special permit application are that it will not create a nuisance by virtue of noise, odor, dust, traffic. There are certain standards within the special permitting powers that are granted to the board.

Mr. Adler: Okay. Thank you. Just so that you know for the record, I do support this. I don't want to seem like I'm hostile to this. I did want to take this opportunity to learn a little bit more about the process.

Mr. Rosen: Thank you for coming.

Mr. Adler: Thank you for explaining this.

Mr. Rosen: Is there anyone else in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Summit Ridge Estates, Inc., 87 Main Street, Rutland, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the occupancy of a portion of the single family dwelling to be constructed upon property located at 15 Slocum Meadow Lane as in-law apartment.

The appellant is constructing a new single family dwelling within the recently approved Summit Ridge Estates subdivision located to the southerly side of Gulf Street. The future owners of the new residence desire to incorporate in-law living arrangements into the first floor area of their home. This living area would be developed above the three car garage situated to the southerly side of the house. The appearance of the finished structure, from the street, would be a typical Colonial-style, single family home.

The board reviewed the proposed plans of the entire structure and the intended occupancy of the residence as a whole and found that the use and occupancy of the in-law apartment was consistent with the intent of the Zoning Bylaw in permitting such accessory living accommodations within or attached to a single family residence. It was their opinion that the issuance of the special permit would not create any condition which would be harmful or injurious to the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the restriction that the rights authorized by the issuance of the special permit shall remain in effect only during that period of time that future owners of the subject premises, Mr. and Mrs. K. Scott Wyman and Ms. Christine R. Gulino, own and occupy the subject property.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

PUBLIC HEARING: Wendy S. MacLean, 16 Chase Terrace, Shrewsbury, MA.

PURPOSE: To hear the appeal of Wendy S. MacLean, 16 Chase Terrace, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal and reconstruction of a portion of the single family dwelling situated upon property located at 16 Chase Terrace maintaining the existing nonconforming setbacks of said structure. The subject premises is described on the Shrewsbury Assessor's Tax Plate 22 as Plot 161.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Youmans: That would be me. I don't look like Wendy today. She's out of town so she couldn't be here.

Mr. Rosen: State your name for the record please.

Mr. Youmans: My name is Ward Youmans. I live at the residence and Wendy is my wife.

We simply want to remove an existing roofed-over porch and replace it because of snow load, basically, and install glass sliders. That's about what it comes down to.

Mr. Gordon: Is this going to be a three-season room or a four-season room?

Mr. Youmans: Yes, three-season.

Mr. Gordon: Okay. You're going to maintain the look of the house, the way that it looks now?

Mr. Youmans: It will be virtually the same. It should be the same look, actually, other than the pitch of the roof will be better. It's a flat roof now.

Mr. Rosen: Are there any more questions?

Mr. Schaetzke: Do you have any photographs or plans?

Mr. Youmans: We have plans on record, but I don't have any with me. There are some on file. The footprint remains the same. It, basically, isn't going to change.

Mr. Gordon: The screens are going to be replaced with windows?

Mr. Youmans: That's right.

Mr. Gordon: And a new roof.

Mr. Youmans: And sliders too, yes.

Mr. Alarie: I have a building permit application in the office. That's how this originated. With the filing of that application, we found out that, when the plot plan was produced, you can see that the front and the rear yard setbacks are legal nonconforming. That's what prompted this appeal to the board. I have the plans back in my office if you would like me to get them.

Mr. Schaetzke: This, basically, is an improvement to the property and an improvement to the neighborhood.

Mr. Alarie: It's a very shallow pitched roof on the porch now, as I understand it. If I recall correctly, they're going to increase the pitch of that and then make some improvements to the foundation system and then create the enclosure.

Mr. Gordon: There's no foundation under that, is there?

Mr. Youmans: No; it's a slab.

Mr. Gordon: It's a slab?

Mr. Alarie: There's an existing slab, but they have to install, around the perimeter, some footings and then create their structure on top of those.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

The decision of the board is on the following page.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Wendy S. MacLean, 16 Chase Terrace, Shrewsbury, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, to allow the removal and reconstruction of a portion of the single family dwelling situated upon property located at 16 Chase Terrace maintaining the existing nonconforming setbacks of said structure.

There is a screened-in porch attached to the southerly side of the appellant's home that has a relatively flat-pitched roofed which Ms. MacLean proposes to remove and, in its place, construct an enclosed three-season room. The height and pitch of the roof over the new room would be raised to provide for better weather protection. Her property is less than 60 ft. in depth with the siting of the existing residence situated thereon having nonconforming front and rear yard setbacks of approximately 12 ft. and 35 ft., respectively. The proposed construction would maintain the footprint of the existing structure.

Upon review of this appeal, the board found that the removal and replacement of part of the single family dwelling situated upon the subject premises would not materially change its nonconforming features or create any condition which would adversely affect the welfare of area neighbors. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

PUBLIC HEARING: Mark A. Portuondo, 65-67 Lear Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Mark A. Portuondo, 195 North Lake Ave., Worcester, MA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and Section VI, Table I, to allow the removal, the reconstruction and the expansion of the single family dwelling situated upon property located at 65-67 Lear Street maintaining the existing nonconforming setbacks of said property and to allow the occupancy of a portion of said structure as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 19 as Plot 36.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Rosen: Welcome. Would you please state your name for the record?

Ms. Portuondo: Nicole Portuondo.

Mr. Portuondo: Mark Portuondo and very well by the way. That was great. I've never heard anyone do that right the first time.

Good evening everyone. We currently own a home in Worcester on North Lake Ave. We are looking to purchase a home on the Shrewsbury side, this one in particular here. When we do we would like to bring my family with us, my family being my mother, my sister and her children, to help her with the children. We would much rather live in Shrewsbury. We have a purchase and sales signed. My mother owns a home and we currently own a home. That's part of the whole deal. So, if we don't sell those, unfortunately, I can't do it, but I wanted to get the ball rolling because this is a large project and it's going to take some time if we are allowed to do it.

I don't know if every has a copy of the plan with the dotted lines and what not on it? I also have some pictures here to kind of help if no one has seen the property.

(Mr. Portuondo presented the pictures to the board.)

The two decks on either side of the house currently have foundations built on them. We want to, basically, take those foundations out, put back a new foundation and add house. So, the house is currently a square. We would, basically, make it a rectangle so that we would have enough room to house these people. We would have the in-law apartment on the upstairs with my family being on the first. Again, the footprint is not going to change. It's just no longer going to be deck, it will be house.

Mr. Rosen: So, you're not removing the entire house?

Mr. Portuondo: No, no, not at all. The main house is staying. There is one section where there isn't any foundation. If you're looking at the house, it's on the right side. The deck stops at a certain point and then there's just grass. That part is new. There's a paper street that runs through behind the house, Lear Street. The house actually won't go over that boundary line if the town ever wanted to put the street in.

Mr. Rosen: So, it's the decks on either side that are coming off?

Mr. Portuondo: Yes.

Mr. Rosen: But you're maintaining the footprint of the house?

Mr. Portuondo: Exactly, because there's already foundation for those decks.

Mr. Rosen: Do you have any plans?

Mr. Portuondo: No I don't because, again, we haven't bought the house so I'm trying not to invest too much until the house is mine. Once it's mine, absolutely. If I need to come back, I gladly will, but I just don't want to invest too much into a house that isn't mine yet.

Mr. Rosen: Okay. It's going to be two stories also?

Mr. Portuondo: Yes, exactly.

Mr. Rosen: To match the existing?

Mr. Portuondo: Yes, the footprint, exactly.

Mr. Rosen: Not matching the existing footprint, but matching the siding and appearance?

Mr. Portuondo: Yes, yes.

Mr. Alarie: Well, if you've seen the house, I think it needs some improvements.

Mr. Portuondo: Yes.

Mr. Rosen: It's going to have the appearance of being just a single family home?

Mr. Portuondo: Yes, yes. It's going to be one home.

Mr. Rosen: Right.

Mr. Portuondo: We're just looking to help out, like I said, my sister and her kids. Unfortunately, their father isn't a good person. I'm a police officer in the City of Worcester and I know what goes on in the Worcester Public Schools. My wife used to teach in the Shrewsbury Public Schools and we're a fan of Shrewsbury. We enjoy the lake. The kids enjoy the lake and want to continue to do so together.

Mr. Rosen: Do you know what the square footage is of what the home will be?

Mr. Portuondo: What the end result would be?

Mr. Rosen: Yes.

Mr. Portuondo: No.

Mr. Rosen: Do you know what the increase would be?

Mr. Portuondo: Square footage, living space?

Mr. Rosen: Yes.

Mr. Portuondo: I don't have the paperwork with me, but I'm going to guess. Roughly, I think it's around 2,600 right now. It would probably be around 4,000 when we're done.

Mr. Rosen: Does anyone else have any questions?

Mr. Schaetzke: I have a question. Does the paper road affect this at all?

Mr. Alarie: No. It's a private way. It is not a public way and I doubt that it will be developed in the future because it serves no purpose or would provide access to any other property.

I would just point for the board that, in reviewing our town records with Mr. Portuondo, we found that both of these structures used to be occupied at one point in time. One of

the buildings, correct me if it is not the right number, Number 65 is now used more or less a garage space and is unoccupied?

Mr. Gordon: Is that the pavilion, Ron?

Mr. Alarie: No.

Mr. Portuondo: I can show you. I actually have old pictures of the house you're referring to.

(Mr. Portuondo presented pictures to the board members.)

I'm pretty excited about this. They called it a single family, but in my mind, no way was it that. It was two buildings, the house and the one that exists where the garage is now. It's hard to see from these pictures, but you can see that's current and that's the old one. Some time in the past I think a fire burned it down. At that point, they turned it into an additional garage. The foundation is still in the back of the house. I'm a little excited about this because I would like to return it to what it was. Whoever owned it at that time, had a nice house. At some point, it lost its niceness or however you want to call it. I want to return it to that. I love the lake and I don't want to damage the lake. I just want to enjoy it and have a nice home.

Mr. Alarie: Almost directly across the cove, if the board remembers, variances were recently granted to allow that property to be developed. There's a brand new house on that parcel now.

Mr. George: Yes, I remember that.

Mr. Portuondo: It was done by Paul Valente.

Mr. Alarie: So, the neighborhood, in that regard, has been improved. There was an old foundation on that site. This is sandwiched pretty much in between that inlet and North Quinsigamond Avenue. You can see by the shape of that lot it's pretty narrow and irregular.

Mr. Rosen: Does this need permission from the lake commission?

Mr. Alarie: Any disturbance upon this site will require conservation approval.

Mr. Portuondo: Yes. I'm planning to go ahead with that, but again, that's rather expensive and I don't own the property right now.

Mr. Gordon: That's the conservation commission.

Mr. Portuondo: Conservation, yes. I've talked to several different people. Between engineers, I can't remember who else I've talked to, but I've talked to several different people. But, again, it's very expensive. I have no problem going forward with it as soon as I own the house. Do you know what I mean? I just don't want to invest a lot of money into something that I don't own.

Mr. George: Now, is this project contingent upon you selling your house?

Mr. Portuondo: Absolutely, absolutely. So, I've got a lot hanging here. That's the way that I like it though.

Mr. Alarie: I believe that the property was just recently connected to sewers as well?

Mr. Portuondo: I don't know that. I know it is because it has to be. I don't know the word for it, but it has a pump from in the house that pumps up to the street.

Mr. Gordon: It's what is called an "E-1 system."

Mr. Portuondo: I've got to check the size of that and make sure that that would be sufficient and what not. I've owned three homes. I've gutted two of them and refinished them. This is not a new thing for me. I'm not construction savvy, but I'm used to the chaos.

Ms. Portuondo: We're looking for this to be our last home.

Mr. Portuondo: Yes.

Ms. Portuondo: I don't want to move again.

Mr. Rosen: Are there any other questions?

Mr. Gordon: How many children will you be putting in the school system?

Mr. Portuondo: Well, we have three immediately and then whenever we have children.

Mr. Gordon: Okay.

Mr. Portuondo: They're all looking forward to it. My sister has a gymnastics place in Worcester and they're looking forward to getting onto the gymnastics teams in Shrewsbury because they've got their mom to teach them.

Mr. Gordon: Okay. The special permit could be granted subject to their purchasing the property because we're granting it to a person.

Mr. Rosen: Right.

Mr. Gordon: So, it would be subject to the sale of the property.

Mr. Rosen: Right.

Mr. Gordon: Is that correct, Ron?

Mr. Alarie: The special permit generally, unless you restrict it, would run with the property. Somebody coming in and doing exactly what's proposed tonight, purchasing

this other than the appellants and making the same changes, would be highly unlikely. So, it would run with the property. It would lapse in two years if the rights are not effected. I would you issue the special permit only to the appellants with the rights not being transferable.

Mr. Gordon: Okay.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Mark A. Portuondo, 195 North Lake Ave., Worcester, MA, for special permits as required by the Town of Shrewsbury Zoning Bylaw, Section IV, Subsection B, and Section VI, Table I, to allow the removal, the reconstruction and the expansion of the single family dwelling situated upon property located at 65-67 Lear Street maintaining the existing nonconforming setbacks of said property and to allow the occupancy of a portion of said structure as an in-law apartment.

The appellant proposes to purchase the subject premises which is a rather long, narrow lot located between the westerly sideline of North Quinsigamond Ave. and the shoreline of Lake Quinsigamond. There is a large, one and one half story single family dwelling situated upon this parcel as well as a large detached garage/storage building that, at one point in time, was formerly occupied as a second dwelling unit. The existing house is of irregular shape with several extensions, covered porches and decks projecting outwards from the main structure. Mr. Portuondo proposes to remove some of these features and to square-off the building utilizing its existing nonconforming setbacks. Additionally, he also desires to occupy of one of the finished floor levels as an in-law apartment.

Upon review of this appeal, the board found that the alterations and the expansion of the existing residence situated upon this property, as described by the appellant, would not materially change its nonconforming features or create any condition that would adversely impact the welfare of area residents. They noted that the subject parcel is one of the largest lakefront properties between Main Street and the I-290 overpass. They also noted that it abuts a "paper street" and determined that, in all practicality, it will never be developed thereby providing an additional buffer to adjoining properties. It was their opinion that the completed structure would compliment the general character of many of the other homes situated within this neighborhood and that its partial occupancy as an in-law apartment was in total harmony with the intent of the Zoning Bylaw. It was, therefore, unanimously voted to grant the appeal as presented to the board subject to the restriction that the rights authorized by the granting of the special permit for the occupancy of the in-law apartment shall remain in effect only during that period of time that the appellant and his family own and occupy the subject premises.

Vote With Respect to Nonconforming Structure

Mr. Rosen	Yes
Mr. George	Yes

Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

Vote With Respect to In-Law Apartment

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

PUBLIC HEARING: Steve Richards, 58 Purinton Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Steve Richards, 54 Purinton Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, to allow the construction of a single family dwelling 30 ft. from the northerly sideline of Purinton Street upon property located at 58 Purinton Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 53 as part of Plot 53.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Rosen: Please state your name for the record.

Mr. Richards: Hi, Steven W. Richards.

Mr. Rosen: Please tell us what you're going to do.

Mr. Richards: Well, basically, I'm thinking of, actually hoping, to split that part of the property. Many of you might know that it's right off of Route 20. It's a rectangular piece of property. It has the square footage as far as I know. I do not have the correct setback, 50 ft. setback. It's roughly 32 ft. on the concept sketch, in that range. I think that it's pretty close to that. The other two houses that are on that side of the street, on the easterly side of that street, are pretty much about the same setback.

I don't think that it will create any problems on the abutting lands or create much of an increase traffic-wise. It just another single home. It will definitely make that part of the town, that part of the land, look much better than it is. It's a cut through road basically, Purinton Street. A lot of trash gets thrown out there. You might know. You might be able to see it there.

That's basically it. I'm at the mercy of the board with not having the correct setback. That's basically where I'm at with it. The concept sketch is pretty close to what it would actually be like. I believe that the closest setback would be 32 ft.

Mr. Rosen: Is this just that there's frontage but there's no area?

Mr. Alarie: There's plenty of frontage. As you can see, it's sandwiched between Route 20 and Purinton Street. It's basically the shape of the lot. It's not rectangular, it's triangular so it narrows quite considerably as you get to the point of the intersection of the two roads. If you can see on the plan, the dotted lines show the building envelope. With the 50 front and 30 side yard setbacks, there is a very limited area of Mr. Richard's property that is buildable.

Mr. Schaetzke: Is this currently one lot?

Mr. Richards: Yes, it is.

Mr. Schaetzke: And the line of division is, on this sketch here, this line here?

Mr. Richards: That's correct. That would be the division.

Mr. Schaetzke: How was that line determined?

Mr. Richards: Basically, I think the engineer for the concept found, I believe, where the 32 ft. in that range would be for that part of the property and where the separation would be, of the two. That's probably one of the largest parts of the land, I would imagine.

Mr. Schaetzke: I mean, the dotted lines on this diagram are indicative of the setback requirements, correct?

Mr. Richards: That's correct.

Mr. Schaetzke: This sketch here is the existing house?

Mr. Richards: That's correct, yes.

Mr. Schaetzke: So, the setback requirements that are drawn on the existing parcel shows that the existing house does not conform?

Mr. Richards: They're basically in line with the proposed lot, I guess you would say.

Mr. Schaetzke: Right, with the proposed lot, but not relative to what you're trying to do? I mean, this line here has no bearing on this line?

Mr. Alarie: Which line, the separation line?

Mr. Schaetzke: This setback that is drawn in here.

Mr. Alarie: It's that proposed line subdividing the property. It's positioned in that manner I think to basically give the 20,000 sq. ft. of land area necessary for the existing house and the proposed lot.

Mr. Schaetzke: I see.

Mr. Alarie: Then the building envelopes are based on how each lot is configured or proposed to be configured.

Mr. Schaetzke: Okay. So, this line was drawn in order to create the lot size requirement?

Mr. Alarie: Right.

Mr. Richards: That's correct, yes.

Mr. George: I have a question through you, Mr. Chairman.

Mr. Rosen: Okay.

Mr. George: The first lot is nonconforming according to zoning.

Mr. Alarie: No; both lots are conforming in terms of area and frontage.

Mr. George: Oh, how about setbacks?

Mr. Alarie: The position of the existing house is nonconforming.

Mr. George: If he proposes to build another house the way he has it on this sketch, it would be nonconforming too, wouldn't it, because of the setbacks?

Mr. Alarie: It would not conform.

Mr. George: Right.

Mr. Richards: As my neighbor to the east side would be the same thing. There're actually only two houses on that side of the road. Basically, they're pretty close to the same setback, the two existing houses that are there now.

Mr. Rosen: Both lots are conforming in area and frontage?

Mr. Alarie: Correct.

Mr. Rosen: But they're not conforming for setbacks?

Mr. Alarie: Right. The existing house is legal nonconforming in terms of its front yard setback.

Mr. Rosen: Okay, but by splitting it, you haven't changed anything on the original property?

Mr. Alarie: Right. You're not affecting their original setback in any way.

Mr. Schaetzke: But the division is creating a circumstance where, with any reasonable structure, it would have to be nonconforming?

Mr. Alarie: Correct.

Mr. Rosen: Are there any other questions?

Mr. Collins: You say that the existing setback is about 32 ft.?

Mr. Richards: That's correct, yes.

Mr. Collins: You're going to reduce it down to 30 ft.?

Mr. Rosen: The new house will be 30 ft. back.

Mr. Collins: So, you've reduced that from 32 ft. to 30 ft.?

Mr. Richards: Yes. He hasn't actually gone from the side. I believe it's the center of the road. I don't know if that's the case. I thought that it was from like where the rock wall would be where they do it but he said something about the center of the road and measuring back since, on Purinton Street, the betterment has been done. I don't know if that's changed that much of the road. I don't know if that's changed the setback. I wouldn't know.

Mr. Alarie: This plan, as you read it, has some varying dimensions. I'm not sure where we came up with the 30 ft. in advertising it, but you can see the setback on the existing house is 32.24 ft. I think that there is a notation on the proposed lot that shows front line of the building envelop at 32 point something. It's a little difficult to read. It's blocked out on my copy. If the board chose to require it to be the same setback, you could increase that 30 ft. to 32 ft. if you wanted to keep any new structure it in line with the existing house.

Mr. Gordon: Would that, though, require a backyard variance?

Mr. Alarie: No. They're not requesting any relief there. I think that we advertised it less than what's actually shown on this plan. He would have to build to that new setback

Mr. Rosen: Is that by shifting the house or by just cutting 2 ft. off the house?

Mr. Alarie: No, just, again, what the engineered plan shows is, again, hard to read. You see the black smudge?

Mr. Rosen: Yes.

Mr. Alarie: It looks like it shows 32.94 ft.

Mr. Rosen: Okay.

Mr. Alarie: Instead of advertising it at 32, I advertised it at 30.

Mr. Rosen: If that's what it is, it's okay. Are there any other questions? Is there anyone in attendance who would like to comment on this petition? Please state your name for the record.

Mr. O'Reilly: Yes; my name is Kevin O'Reilly. I live at 57 Purinton Street, which would be directly across the street from their new house. He hasn't asked me to come here tonight. I did so because of the notice. Based on what I've heard, I have no objection.

Mr. Rosen: Thank you for coming. Is there anybody else? There being none, we'll take it under advisement and notify you of the board's decision.

The decision of the board is on the following page.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals voted one in favor of and four opposed to the granting of the appeal of Steve Richards, 54 Purinton Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Front Yard Requirement, Rural B District, to allow the construction of a single family dwelling 30 ft. from the northerly sideline of Purinton Street upon property located at 58 Purinton Street.

The appellant's property consists of over an acre of triangular-shaped land located between the eastbound lane of Route 20 and the northerly sideline of Purinton Street. There is one single family dwelling situated upon this parcel and Mr. Richards proposes to subdivide his land to create a second buildable lot. Each of the proposed lots conform to the minimum area and frontage requirements applicable to the Rural B District; however, due to its narrowness caused by its shape and its siting between the two roadways, the building envelop of the second lot has insufficient depth to site a meaningful structure therein. Mr. Richards request relief from the 50 ft. minimum front yard setback requirement to allow the construction of a single family home upon this proposed lot.

The majority of the board found that, upon review and consideration of the appellant's presentation, there were no special conditions affecting his property that would satisfy the statutory requirements for the granting of the relief requested. It was their opinion that any hardship experienced by Mr. Richards in his attempt to subdivide his land is self-created and that the reduction of the minimum front yard requirement from 50 ft. to 30 ft. would, in this instance, be a substantial derogation from the intent of the Zoning Bylaw. They, therefore, unanimously voted to deny the appeal.

One member of the board found that, due to the shape of the subject premises and its siting between the two aforementioned streets, the literal application of the minimum terms of the bylaw would impose a significant hardship to the appellant in his desire to

create an additional building lot. He noted that both of the proposed lots had complying area and frontage and that the proposed front yard setback of either 30 ft. or 32 ft. would match the existing setbacks of many of the other structures fronting upon Purinton Street. It was his opinion that the construction of a single family dwelling upon the proposed second lot would not seriously depart from either the intent or the purpose of the bylaw and, accordingly, voted to grant the appeal.

Vote

Mr. Rosen	No
Mr. George	No
Mr. Gordon	Yes
Mr. Schaetzke	No
Mr. Collins	No

PUBLIC HEARING: Tim Coghlin and Karen Phillips, 94 Sewall Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Tim Coghlin and Karen Phillips, 94 Sewall Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the continued maintenance of a storage shed 5.3 ft. and 3.8 ft. from the side lot lines of property located at 94 Sewall Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 8 as Plot 17.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Rosen: Please state your name for the record.

Mr. Coghlin: Tim Coghlin.

Ms. Phillips: Karen Phillips.

Mr. Coghlin: We had a shed built approximately five years ago in our backyard. It's approximately 16 ft. by 16 ft. in size. We had a local contractor build it who has since then, I guess, had some problems and has gone out of business. But, he had told us that we wouldn't need a permit if we had built it on blocks, which is what it is on now. It's just on blocks.

We put in an inground swimming pool last summer and, in the process of doing that, we found out that we had a problem. That was not drawn on the plan, the shed and that's why we're here tonight. That's how it all came up that we need a permit for the shed, which we had no idea at that time that we needed one.

Mr. Rosen: Okay.

Mr. Coghlin: Which brings us here tonight.

Ms. Phillips: It's been there for five years. We do actually have a letter from our neighbors stating that they have no problem with it.

Mr. Coghlin: The abutting neighbors. We have a signed letter.

Mr. Rosen: I imagine that they haven't complained in the last five years?

Mr. George: No.

Mr. Gordon: This has to go to conservation, Ron?

Mr. Alarie: Well, they've been to conservation for the pool issue. I think that, at their last conservation meeting, both of these issues were addressed by them.

Ms. Phillips: Yes; it was on the plan. When they came out for the septic system and the pool, that is when this was all discovered. That's when we did the plan with the shed on the plan and we went back to conservation.

Mr. Gordon: There's no way that we can make the contractor an honest man.

Mr. George: I don't think that you have room to put it anywhere else?

Mr. Coghlin: Yes and the other problem is that we couldn't move it. There's a septic system right here in the back yard.

Mr. Rosen: Okay. Are there any questions?

Mr. George: I just have one question. Ron, what's the stipulation on a shed that size? How does it have to be secured?

Mr. Alarie: The bylaw requires that any shed 200 sq. ft. or less only has to be 10 ft. from all the property lines. The building code requires that any structure over 120 sq. ft. be set on some type of a foundation system i.e., frost walls, sonotubes or something like that. In this case, this shed exceeds the 200 sq. ft. limit so they're subject to the 30 ft. side yard setback requirement. There is a greater setback required here because of the size of the structure.

Mr. George: So, what has to be done in order to correct this?

Mr. Alarie: I've already addressed all of the issues with Mr. Coghlin. If he's successful in getting the variances, then we have to move on to the building code issues.

Mr. Schaetzke: Do you have any photographs or sketches of the land?

Ms. Phillips: There were plot plans that were submitted. We just have a high level one.

Mr. Schaetzke: Yes. I have this.

Ms. Phillips: Yes. It just shows where the existing shed is.

Mr. Schaetzke: What is the reason that you could not relocate structure?

Ms. Phillips: We just put in a whole septic system which pretty much takes up our entire backyard and we just put in an inground swimming pool which takes up our entire side yard. We're on the water so we really don't have other place to put it.

Mr. Alarie: It's located in probably the only level area that exists behind the house. From that area, the rest of the lot then slopes down to the pond. You can also see where the configuration of their property over on that side of the lot where the lot line jogs and comes back in and then heads down to the pond. That shape kind of shape further restricts that level area where they can place such a structure. I doubt if they could have originally put anything meaningful in there under 200 sq. ft. so as to meet the 10 ft. setback from those lines.

Mr. Rosen: Especially with the contours of the land.

Mr. Schaetzke: What do you use the shed for?

Mr. Coghlin: Basically, it just houses beach toys and some all terrain vehicles.

Ms. Phillips: And now the pool filter. We put the filter in there.

Mr. Rosen: Are there any other questions? Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

The decision of the board is on the following page.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Tim Coghlin and Karen Phillips, 94 Sewall Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, to allow the continued maintenance of a storage shed 5.3 ft. and 3.8 ft. from the side lot lines of property located at 94 Sewall Street.

Approximately five years ago, the appellants engaged a contractor to construct a shed within the rear yard area of their property. At that time, they were informed by their contractor that, since the building was to be placed upon concrete blocks, no building permit was required and the shed was subsequently constructed at the aforementioned setbacks. However, due to the size of this building, a permit was required for its construction irrespective of its foundation system. Furthermore, Section VII, Subsection C, of the Zoning Bylaw prescribes a minimum 10 ft. setback for any such accessory structure that is 200 sq. ft. or less in area. However, since the appellants' shed is larger

than that, the required side yard setback for its placement increases to 30 ft. This violation was detected subsequent to the recent installation of an inground swimming pool upon this lot. The appellants now appeal for relief from the literal enforcement of the minimum terms of the bylaw to allow this structure to remain in its current position.

Upon review of this appeal, the board noted that the appellants' property extends from Sewall Street to the easterly shoreline of Newton Pond and is somewhat unique in its configuration as its northerly sideline jogs inwards directly to the rear of their home thereby significantly reducing its width. They also noted that, where the property line jogs, the grade of the lot drops steeply down to the shoreline leaving only a relatively small area of level yard to the rear of the house. Due to these conditions, variances were necessary to effect the installation of the swimming pool and it was their opinion that these conditions similarly restricted the siting of a shed upon this property. They concluded that the granting of the relief now requested would not seriously depart from the intent of the bylaw and, further, noted that the presence of the shed since its installation has not created any condition which has adversely impacted the welfare of either the general public or area residents. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

PUBLIC HEARING: Wayne and Jacqueline Humphrey, 99 Sewall Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Wayne and Jacqueline Humphrey, 99 Sewall Street, Shrewsbury, MA, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, and a special permit as required by Section VI, Table I, to allow the construction of an addition 18 ft. from the side lot line of property located at 99 Sewall Street and to allow the occupancy of a portion of said addition as an in-law apartment. The subject premises is described on the Shrewsbury Assessor's Tax Plate 8 as Plot 53.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Atty. Ricker: Good evening Mr. Chairman and members of the board. My name is Richard Ricker. I'm an attorney practicing law at 11 Maple Ave. in Shrewsbury representing Mr. and Mrs. Humphrey tonight.

This is a dual request. It's a request for a special permit for an in-law apartment as well as for side yard setback relief relative to an addition that my clients would like ad onto their home. Specifically, the addition would be for the purpose of adding a garage to the premises as well as an apartment for their son to live in and remain in the house with them. Due to the fact that he has, as most young people have in this community, encountered difficulty buying their own home in Shrewsbury, it is their hope that they can do an in-law apartment so that he can remain living with them when, hopefully, he gets married and has some grandchildren for Jackie and Wayne. I do have a letter signed by the immediate abutters. I would just like to submit that.

(Atty. Ricker presented the letter to the board members.)

With specific attention to the property itself, I'm sure that you noticed when you were at the site that this is a property that has a great deal of topographical features, to say the least. You have to climb up a fairly steep driveway. It does continue to go up the hill off of Sewall Street. It has a significant number of outcroppings of rock and ledge evident all along this area here. There is a level pad right in this area right here where the present driveway lands. They would like to continue to utilize that for the purposes of the driveway in front of the garage area. There was a pad further towards the sideline which was approximately in this vicinity here. That pad is still there. That held, basically, a Quonset hut type of enclosure that they used to house, I believe, Mr. Humphries antique car for quite a few years. That structure is no longer there, but the pad remains.

So, basically, the hardship in this particular case is the rock and ledge and you can see that the house itself, which they've been in since 1978, was built in a kind of a cockeyed manner. I would suggest that that was probably due to the topographical nature of the lot as well. You've got a substantial amount of ledge and quite a bit of outcroppings that come out all over this lot. You can see that it goes and continues up the hill.

In back of the house, you really couldn't put this addition back there because you've got even more rock coming out of the ground. I mean, it's just clearly evident. I'm sure that, if you were up there and took a look at it, there's no question that that would be a severe hardship for anybody to build on.

The requests before you are not detrimental to the bylaw. There is no derogation from the intent of the bylaw. We're asking for the continuance of a single family use, but with an in-law apartment. They do understand the sunset provisions of their request as this is for use as in-law apartment only. They also understand that there would probably be some sort of a deed restriction as a result of this request. That would not be a problem whatsoever. I would also suggest that this petition does not request anything that would be a nuisance of any type. Again, it's a single family use. They intend to continue to live there. They're asking for their son to be able to continue to live there in the in-law apartment. You can see from the drawings that the addition is, basically, stepping up as the lot does. It sets back quite a ways back from the street so that visibility from the street isn't really an issue in this case.

Mr. Gordon: The shed was about 18 ft. from the line, wasn't it, the Quonset hut? So, basically, you're not going any further than that?

Mr. Humphrey: No.

Mr. Gordon: The land next to this, as I understand it, is owned by some trust or something?

Ms. Humphrey: Yes.

Mr. Gordon: So, there's nothing that's going to be built there?

Atty. Ricker: Well, who knows, but it has been vacant for a long time and there's quite a bit of land there.

Mr. Gordon: The land is difficult to work on.

Atty. Ricker: Yes.

Mr. Rosen: The reason that they can't go back is because of the ledge behind the house?

Atty. Ricker: Clearly, yes.

Mr. Rosen: What's the square footage of the addition?

Atty. Ricker: It almost, actually, doubles the house. The square footage is about 1,800 sq. ft., plus or minus. It's a small ranch, however, as it exists now. As you know in ranches of this age, the rooms are small. They'd like to, basically, take a couple of bedrooms and make it one for themselves and, basically, utilize the existing ranch for themselves and have room for their son and, hopefully, his eventual family to live there as well.

Mr. Gordon: Is this septic or sewer?

Atty. Ricker: It's septic. They've already started the design for an additional septic system.

Mr. Gordon: Will it require one?

Atty. Ricker: Yes. It requires a repair, but they've elected to go with a full new system.

Mr. George: Where is that located?

Ms. Humphrey: In the front of the house.

Atty. Ricker: In the front of the house right about here.

Mr. Gordon: So, down below sort of where the excavator sits, on that side?

Mr. Humphrey: If you're looking down from the house, down to the left.

Mr. Gordon: Okay. So, you're close to where the excavator is parked?

Mr. Humphrey: Yes. Just above where the excavator is.

Atty. Ricker: In fact, that was there for the soils test.

Mr. George: Through you, Mr. Chairman, when I was up at the site, to me it seems like there is probably more ledge where he's proposing this addition than behind the house. It seems like it's pretty clear behind the house. I was wondering if you thought of maybe going towards the back of the house a little more and maybe it would stay within the side yard setback?

Atty. Ricker: I can answer that. Although it is not apparent immediately behind the house that there is ledge there, as you go about 20 ft. out from the back of the house, you get large outcroppings coming out of the ground. I was up there myself a couple of times taking a look at it. I, frankly, didn't see how you could swing this addition around to the back to do that or anything close to that.

Mr. George: I understand that it might be hard for cars going up and approaching the house too to try to go around the house if it's at the back.

Atty. Ricker: And that steps up so the lawn that they have there is likely covering up a substantial amount of ledge as well.

Mr. George: If he does have the ledge where he's proposing to put it, would it cause him to move it one way or the other?

Atty. Ricker: If he hits ledge, I think that he would be faced with a question of whether to change his plans in terms of the layout of the cellar area, whether it steps up and becomes crawl space or something like that.

Mr. George: Or to spend the money on removing the ledge.

Atty. Ricker: Or to spend the money on the removal of the ledge which, as you can imagine, is very expensive. I can tell you that.

Mr. Rosen: The addition, is it going to match the house, a ranch also?

Mr. Humphrey: Yes.

Atty. Ricker: As laid out here, there are several views from different positions.

Mr. George: When I was up there today, I asked him if he was going to try to carry the brick look with the new part and you said that he might consider doing the front part of it in brick?

Mr. Humphrey: We're going to try to blend it in as much as we can, yes, on the front.

Mr. Schaetzke: Why not put the additional living area as a second floor to the existing structure?

Atty. Ricker: That's a good question.

Mr. George: Probably because maybe they want to keep it separate as an in-law apartment?

Atty. Ricker: I think that the question was that they wanted a garage as well. If you continue to have three vehicles come up the driveway and, eventually four, then you do need to think about garaging at some stage. I mean, you do have a house that's on a hillside. You're dealing with snow and ice in the winter in this northeastern town of ours. The bottom line is that I think that they would really like to have a garage as well for their vehicles.

Ms. Humphrey: I want grandchildren. I don't want to have to hear them either.

Mr. Schaetzke: I could have anticipated the answer, but I wanted to ask the question.

Mr. Rosen: Is there anyone in attendance who would like to comment on this petition? There being none, we'll take it under advisement and notify you of the board's decision.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Wayne and Jacqueline Humphrey, 99 Sewall Street, Shrewsbury, for a variance to the Town of Shrewsbury Zoning Bylaw, Section VII, Table II, Minimum Side Yard Requirement, Rural B District, and a special permit as required by Section VI, Table I, to allow the construction of an addition 18 ft. from the side lot line of property located at 99 Sewall Street and to allow the occupancy of a portion of said addition as an in-law apartment.

With respect to the appellants' request for relief from the minimum side yard setback requirement, the board found that, due to the topography of the subject premises and the existence of ledge thereon, the literal application of the minimum dimension terms set forth in Table II of the Zoning Bylaw to this property would impose a substantial hardship to the Humphries in their attempt to expand their home. They noted that the present structure sits approximately 110 ft. in from Sewall Street and at a substantial elevation above the grade of the road within the only relatively flat area of the lot. They also noted that the side of the property where they propose to build abuts a large tract of vacant land. It was their opinion that, in this instance, the reduction of the side yard setback to 18 ft. would not seriously depart from the intent of the bylaw or create any condition which would adversely impact the welfare of either the general public or area residents.

In considering the issuance of the special permit to allow the occupancy of a portion of the proposed addition as an in-law apartment, the board found that its use for said purpose was consistent with the intent of the bylaw in permitting the such accessory living accommodations within or attached to a single family residence. They found that the occupancy of the subject premises by Mr. and Mrs. Humphrey and their son would

not create any condition which would be harmful or injurious to the welfare of the general public.

Finding that the appellants' presentation complied with the statutory requirements set forth in both the Zoning Bylaw and Chapter 40A of the Mass. General Laws for the granting of the aforementioned variance and special permit, it was unanimously voted to grant the appeal as presented to the board subject to the restriction that the rights authorized by the issuance of the special permit shall remain in effect only during that period of time that Mr. and Mrs. Humphrey own and occupy the subject property.

Vote/Variance/Section VII, Table II

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

Vote/Special Permit/Section VI, Table I

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes

PUBLIC HEARING: Omnipoint Communications, Inc., a Wholly Owned Subsidiary of T-Mobile USA, Inc., 249R Main Street, Shrewsbury, MA.

PURPOSE: To hear the appeal of Omnipoint Communications, Inc., a Wholly Owned Subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Suite B, Norton, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the installation of wireless telecommunication antennae upon an existing utility pole situated upon property located at 249R Main Street. The subject premises is described on the Shrewsbury Assessor's Tax Plate 20 as Plot 39.

PRESENT: Ronald I. Rosen, Chairman, Paul M. George, Melvin P. Gordon, Dale W. Schaetzke, Peter D. Collins and Ronald S. Alarie, Building Inspector.

Mr. Rosen opened the hearing by reading the advertisement as it appeared in the Worcester Telegram on November 27, 2006 and December 4, 2006.

Mr. Rosen: Welcome back.

Atty. Rugman: Good evening Mr. Chairman and members of the board. Again, for the record, my name is Kate Rugman, an attorney representing, legally the name is Omnipoint Communications, but it's more commonly known as T-Mobile. As you

reiterated, I have been before this board recently for similar requests. My clients are looking to build out several sites in Shrewsbury. We are here now before you to add an additional site to complete their footprint for this area.

The site that they are looking at that you referenced is 249 Rear Main Street. You should have before you a packet of information enumerating plans and additional information relative to the bylaw as to why we believe we should be granted a special permit for this use.

The best way to also explain why they need this coverage is, if you look at your packets, there is colored plan of this vicinity of Route 290. There is a radio engineer affidavit stipulating why they need this site. The pink area by Route 290 up here is where the 249 Rear Main Street is located. This white area means that there's no signal strength. That's, basically, what they call in the industry a "dead spot," meaning you can't make a call there or it will be dropped. Should this site be granted, it would fill in where that white piece is on this map. It would be pink meaning that, if you're traveling along 290, you would, in fact, be able to carry a call in that area.

More specifically, about the proposal itself, you also have this plan before you. They're looking to utilize an existing utility structure, which is actually outlined in your wireless bylaw that that's one of the structures to be used for such purposes. The structure is already there. It's part of the power line. We have shown in your packet of information a letter of authorization to move forward, meaning that we have leased this space from National Grid, the New England Power Company. There is already, as I said, an existing utility structure. They would be looking to put two sort of cluster mount-type antennae, meaning three on this pole and three on this one. The picture itself is probably a little bit easier to see than what I'm talking about. There's already a pole there. You actually do have this in your packet of information.

This is the utility structure that actually AT&T is on. I believe that this board probably granted approval to do that. AT&T is in the same easement that this would be located on. This is the pole that we propose to put our antennae on. The only difference is that, as you can see, this is a one tower type pole. I don't know exactly what the term is in utility terms, but this has two stanchions to it. They would like to actually put, as I said, three clustered antennae here similar to that and then three here. So, they would have a total of six antennae. Then, at the base of it as shown on the plans, they need to put three cabinets that would be in a fenced-in enclosure. AT&T also does have cabinetry at the base of their pole.

As I said, the structure itself is within the power easement and we do have permission to do that. I might add that there is along Dalton Road, which is a private way, an access drive. I don't handle that part of it, the leasing part of it, but it's my understanding that they're in discussions and/or may have already signed the agreement to get that access to this area to be able to go, actually, from that private way to where the power company's easement is. Certainly, should the board decide to grant this, we would certainly agree, obviously, to that condition that that easement access be worked out and finalized and provide you a copy of it, excepting the monetary terms or the specific type of proprietary information.

That's pretty much it. It's a fairly simple proposal. As I said in the introduction, the copy of the license that was fully executed is in your filing. You have information as to why we believe that we do meet your special permit criteria. Once the site is operational, there is maintenance there maybe a once a month. As I said, the access is already there and AT&T is already using it. It's right there so they're not creating anything really additional.

Mr. Rosen: So, you're on the stanchion right next to the one where AT&T is?

Atty. Rugman: Right. The difference, as I said, is there's is a singular stanchion.

Mr. Rosen: Right. I just wasn't sure if that was the same picture.

Atty. Rugman: Right. We believe that this is a good installation in the sense that it's along the highway. It's on an existing utility pole. Obviously, we don't need to put a tower right in that area or somewhere near that area. I know that we did a church steeple. That's a great installation too. A roof top at another location and, again, this is trying to be considerate of your bylaw to utilize existing structures whenever possible.

Mr. Rosen: Are there any questions?

Mr. Gordon: I just have my usual question. Does AT&T or are you planning a repeater antenna for public safety? Would you put one up, a repeater antenna?

Atty. Rugman: On the structure?

Mr. Gordon: Yes.

Atty. Rugman: In answer to that question, I don't think that we are because we don't own these poles or that we would have the right to do something like that. If the town desired to do that, they would probably have to actually deal with the power company versus if we were actually owning that structure. If we were rebuilding a police tower or fire tower or something like that, then we could have the right to do that. To be honest with you, I don't know that we could actually do that because we don't own the poles themselves.

Mr. Gordon: Ron, do we have a repeater antenna in that section of town?

Mr. Alarie: I'm not sure, but I know that both the police chief and the fire chief were forwarded copies of the board's agenda. I haven't heard or haven't received anything from them regarding such a request. I don't think that there's anything that's critical up in that area that I've been made aware of.

Mr. Gordon: Okay, then I'm satisfied.

Mr. Schaetzke: How much height will this add to the existing structure?

Atty. Rugman: I believe that it's 7 or 8 ft. The top of the existing structure is 69 ft., 7 in. and that it would be 77 ft. 7 in. total.

Mr. Schaetzke: Is the character of the appearance specific to the technology that your client uses?

Atty. Rugman: The appearance would be very similar to what AT&T is doing.

Mr. Schaetzke: I think that you said that that was a single.

Atty. Rugman: My point was that this is the pole that AT&T is currently on.

Mr. Schaetzke: Yes; okay.

Atty. Rugman: I don't know the term for single stanchion, I guess. This is a double stanchion we would be proposing to locate on. They have an additional antenna on there. We would put antennae, three clustered here together and a canister-type formation here.

Mr. Schaetzke: So, it really wouldn't look different from what this looks like?

Atty. Rugman: No, except that there would be antennae on both of these. If you look at the plan, see how that's a double stanchion?

Mr. Schaetzke: I see, yes. Okay, so they would be mounted on the side of the original structure. When you say "three," it would look like one to me?

Atty. Rugman: Yes, yes.

Mr. Schaetzke: Okay. It really would look more like an extension to the top of that structure.

Atty. Rugman: Well, it's going to look very similar. I don't know how many people would know that it would actually be there.

Mr. Schaetzke: No, right.

Mr. George: So, if there were any abutters in the area, they wouldn't even notice the difference of the antenna on the structure?

Mr. Rosen: Between what's there now and after the installation?

Atty. Rugman: Not really.

Mr. George: It would blend right in.

Atty. Rugman: I mean, I think that I actually talked to your building inspector too and asked whether there were complaints regarding this one. I like to know information. I don't believe that he said that there were any issues with respect to this utility pole so they designed it similar to what AT&T has.

Mr. Schaetzke: I don't know if it's a technology issue or what it is, but I've certainly seen some arrays of antennae that were significant. I mean, this is just a big ring.

Atty. Rugman: Right.

Mr. Schaetzke: That doesn't appear to have that visual characteristic.

Atty. Rugman: No, they're not willing to do that. One of the other reasons too that they wouldn't look to do that is because, granted, these stanchions are fairly substantial, but also structurally, they're only capable of holding a certain amount of weight. I was actually planning to, if the board were to grant this, get the engineers to go out and make plans so they've structurally looked at, but certainly at the building permit stage AT&T had to submit a structural letter of some sort. I would imagine that, should the board approve our special permit, something like that could be conditioned at the special permit level and/or upon request of a building permit.

Mr. Gordon: I'm sure that your lease with the National Grid will require that they're not going to let you on their pole if it's going to break the pole.

Atty. Rugman: Right, absolutely.

Mr. Gordon: That's what, high power?

Mr. Rosen: Yes.

Mr. George: Yes, high tension.

Mr. Rosen: Are there any other questions? Is there anyone in attendance who would like to comment on this petition? Please state your name for the record.

Mr. Johnson: Fred Johnson. I'm a trustee for Westbrook Crossing. They have to cross our property to get to the site. We are presently in negotiations with them. I think that we're just about to come to conclusion on that.

Atty. Rugman: Again, I'm sorry, but I'm not the person that handles that leasing. So, as I mentioned to the board, I'm not privy to all the details. I was informed that they are currently negotiating that access.

Mr. Johnson: I think that we are close to coming to an agreement.

Atty. Rugman: Certainly, I'm an available resource if there are any issues that you would like to try to talk to them about, but like I said, I don't handle it directly.

Mr. Rosen: Thank you. Is there anyone else? There being none, we'll take it under advisement and notify you of the board's decision.

Decision

On December 12, 2006, the Shrewsbury Zoning Board of Appeals unanimously voted to grant the appeal of Omnipoint Communications, Inc., a Wholly Owned Subsidiary of

T-Mobile USA, Inc., 15 Commerce Way, Suite B, Norton, MA, for a special permit as required by the Town of Shrewsbury Zoning Bylaw, Section VI, Table I, to allow the installation of wireless telecommunication antennae upon an existing utility pole situated upon property located at 249R Main Street.

The subject property is located adjacent to the eastbound lanes of Interstate 290 and is occupied by overhead, high-power, electrical transmission lines. There are two sets of lines running through this corridor that are supported by two different types of stanchions, one of which is a single tower that is presently equipped with wireless communication antennae mounted upon the top of the structure. The second line support system consists of two high poles with a cross member attached to each pole from which the power lines are hung. The appellant proposes to install three “cluster-type” antennae, which are approximately 8 ft. in height, to the top of each of the two poles that are located adjacent to the I-290 right-of-way line. A 15 ft. square, fenced-in area will be arranged at the base of one of the poles within which three radio control cabinets will be installed.

Upon review of this appeal, the board found that T-Mobile’s proposal to site wireless communications antennae upon the aforementioned structures was in total concert with the intent of the Zoning Bylaw to permit such installations upon existing buildings and structures. It was their opinion that the power line transmission towers were ideally suited to accommodate the placement of the proposed antennae and that, when installed, their presence would not be readily discernable from any abutting property or motorists traveling Interstate 290. They found that this installation would promote the public’s interest by enhancing the reception and transmittal of cellular telephone and other electronic messaging within this section of the I-290 corridor as well at the surrounding area. It was, therefore, unanimously voted to grant the appeal as presented to the board.

Vote

Mr. Rosen	Yes
Mr. George	Yes
Mr. Gordon	Yes
Mr. Schaetzke	Yes
Mr. Collins	Yes